

Standards are similar to the NCTA standards. Generally, both require the cable operator to respond in four rings.<sup>13</sup> In addition, both generally provide that a customer may not be kept on hold for longer than 30 seconds.

Several cable operators commenting in this proceeding suggest defining "normal operating conditions" to exclude a variety of conditions, which could result in substantially undercutting the effectiveness of the standards. For example, Tele-Communications, Inc. suggested in its comments that in addition to typical "force majeure" events (e.g., acts of God, fire and casualty) the following events should also be excluded from "normal operating conditions": federal, state and local holidays and conditions occurring as a result of a significant enhancement or upgrade of the cable system.

Local Governments recognize that exigent circumstances will at times make it very difficult, if not impossible, to comply with a specific telephone standard. Accordingly, the Recommended Standards, like the NCTA standards, contain certain performance measurements to evaluate compliance over a specific

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<sup>13</sup> The NCTA standard only contains such a requirement when the system utilizes automated answering and distribution equipment.

period of time.<sup>14</sup> While it is appropriate to excuse a cable operator from complying with standards due to circumstances beyond the cable operator's control (assuming the cable operator takes all reasonable steps to comply with the rules), cable operators should not be excused from the telephone standards in the event of a major upgrade or rebuild of the system or during marketing promotions. Under those circumstances, customer service problems tend to increase.

Accordingly, in that situation it is all the more important that the cable operator be responsive to the needs of its customers and respond promptly to their inquiries. Thus, the Recommended Standards contain a narrow exemption from the standards in the event of an unforeseen occurrence due to circumstances beyond the cable operator's control.

If the Commission determines to provide an exemption for complying with its telephone standards, or for any other of the consumer protection standards, the exemption must be drawn very narrowly and should only be available for force majeure types of events, unforeseen and beyond the control of the cable operator. In addition, any exemption from the telephone standards, or,

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<sup>14</sup> For example, the Recommended Standards require that the rate of lost calls may not exceed four and a half percent in any one month period.

for that matter, any other Commission standard, must be caused by such disruption. For example, in the event of a fire, a cable operator should be excused from complying with a specific standard only to the extent that the fire caused the operator to be unable to comply with such standard and the operator takes all reasonable steps to comply with the applicable standard, notwithstanding the fire.

Several commenters suggest lowering the NCTA standard regarding telephone response time. For example, in its comments, Continental Cablevision, Inc. suggests that cable operators with automated answering and distribution equipment should be required to answer calls within 30 seconds of the receipt of the call. This would mean that a subscriber could wait endlessly while the telephone rings before a cable operator answered, and the cable operator would still comply with the standard! The Commission should reject such an obvious loophole.

## 2. Installations, Outages and Service Calls

### a. Response to Service Problems

The NCTA standards require that a cable operator will respond to service interruptions promptly and in no event later than 24 hours. Other service

problems must receive a response to within 36 hours during the normal work week.

As Local Governments stated in its initial comments in this proceeding, the requirement that the cable operator "respond" to service interruptions within a certain amount of time is vague. It is not clear whether the cable operator is required to correct the problem, or merely take note of the problem. In addition, it is not clear what "service interruption" means, as opposed to "other service problem."

Even if the provision is interpreted to mean that service interruptions must be corrected within 24 hours and other service problems will be corrected within 36 hours during the normal work week, the standard is problematic for other reasons. Most importantly, the amount of time that a cable operator is given to correct service problems is too long. The Recommended Standards provide that a cable operator must be required to respond promptly to, and correct, service outages within 12 hours. All reception and other service problems must be acknowledged within 24 hours of a subscriber reporting them to the cable operator. Off premises repairs must be completed within 24 hours and repairs involving a visit to the subscriber's premises must be completed 48 hours.

Local Governments note that Tele-Communications, Inc. seeks to narrow the definition of "service interruption" so that in order for the cable operator to be required to correct the service interruption, there must be a loss of picture (as opposed to sound) on more than one channel. Local Governments believe that such a rule is grossly unfair to consumers. If a consumer is unable to hear a program on one channel, the cable operator should be required to correct the problem in the same amount of time as if there was loss of picture on more than one channel.

The Recommended Standards define service outage as any outage of sound and/or picture on one or more basic or premium channels or any other channel providing cable service. It is imperative that any Commission standards define outage to include any outage of picture or sound, so that the cable operator is required to correct the problem within a shorter period of time than is required for other service calls.

The NCTA standards do not provide for any enforcement mechanism in the event that a cable operator fails to correct such problems within the specified time. The lack of provisions for credits in this area is a crucial omission. If the cable operator has failed to correct a service problem within the requisite time

period, and as a result the consumer has not received his or her service, the cable operator must be required to provide the cable subscriber with a credit of free cable service. At the very least, requiring cable operators to provide for credits in the event they fail to comply with these obligations may provide an incentive to correct promptly outages and other service problems. Indeed, many cable operators of both large and small systems throughout the country have agreed to provide for such credits in the event they fail to correct service problems, including outages, within a certain amount of time.

The Recommended Standards require that, in the case of an outage, the cable operator must give a credit for 24 hours of free cable service for every outage that lasts more than 4 hours in any 24 hour period or calendar day. The credit is calculated to equal 1/30 of the subscriber's total bill for the immediately preceding month for the services affected by the outage.

b. Appointment Windows

The NCTA standards require a cable operator to provide window alternatives for installations, service calls, and other installation activities in the morning, afternoon or all day. Based on community

needs, cable systems are to schedule supplemental hours during which appointments can be set.

As Local Governments indicated in their initial comments, this provision is vague. It is not clear whether a cable operator has complied with the provision if it provides for an all day appointment window. In addition, the standard should provide much more specific guidance as to what constitutes morning and afternoon hours. Local Governments believe that requiring a subscriber to be available for a period longer than four hours is unreasonable. Finally, for the same reasons addressed in Section II.D.1.a above, it is crucial that a cable operator provide evening and weekend services for installations and service calls.

Accordingly, the Recommended Standards provide that the cable operator must make appointments for installations and service calls at a specific time or within a 4-hour time block, with adequate appointment time available during evenings and weekends. Recognizing the inconvenience to a customer in a situation in which the cable operator has failed to keep an appointment, the Recommended Standards provide that the cable operator must give a credit for one free month's cable service in the event of such occurrence. In fact, as documented in Local Governments initial comments in this

proceeding, cable operators have agreed to such provisions in many jurisdictions for the benefit of consumers.

### 3. Communications, Bills and Refunds

The third area of the NCTA standards is communications and billing. The NCTA standards in this area are extremely imprecise and entirely omit several critical areas. For example, the NCTA standards provide that bills "will be clear, concise and understandable."

The legislative history of the 1992 Act indicates that billing is a significant problem area for cable consumers.<sup>15</sup> This is also reflected in the Manhattan customer service survey. The results of the survey demonstrate that a significant number of the respondents had a billing problem in the preceding two years. Of those subscribers experiencing a billing problem, almost half indicated that the cable operator did not notify them in writing of the result of its investigation within 20 working days from the date the complaint was made as required by New York State regulations. Other commenters in this proceeding have also indicated the importance of improving customer billing. Indeed, one commenter stated that billing

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<sup>15</sup> H.R. Rep. No. 102-628, 102d Cong., 2d Sess. 34-36 (1992).



practices appear to be the single greatest source of complaints about cable operators.<sup>16</sup>

Local franchising authorities receive many complaints regarding billing, including but not limited to, incomprehensible bill formats, inhospitable billing dispute resolution mechanisms, misrepresentation regarding the itemization of franchise fees and imposition of late charges without notice. The NCTA standards do not even address these areas.

The Recommended Standards address many of these areas, including requirements that:

- bills must contain itemized changes for each category of service and piece of equipment for which a charge is imposed;

- each bill must contain an explicit due date at least twenty (20) days after the date of mailing the bill, the billing period, the amount of current billing and appropriate credits or past due balances, if any;

- the name and address of the cable operator and the telephone number for the cable operator's office responsible for inquiries and billing; and

- the telephone number for the local franchising authority's

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<sup>16</sup> Comments of Attorneys General of Pennsylvania, Massachusetts, New York, Ohio and Texas, dated January 8, 1993 at 9.

office responsible for administering cable.

The Recommended Standards also provide guidelines for the resolution of billing disputes and prohibit the imposition of late fees until at least 45 days have elapsed from the mailing of the bill to the subscriber.

4. Areas Not Addressed by NCTA Standards

Several cable operators commenting in this proceeding state that the NCTA standards are comprehensive. Time Warner Entertainment Company, L.P. states that the NCTA standards address "all" aspects of customer service. That is simply not true. In fact, Time Warner itself has agreed to consumer protection standards for cable systems it operates that are not addressed by the NCTA standards.

The NCTA standards do not cover a variety of areas that the Commission-established standards should address. Local Governments urge the Commission to carefully consider the Recommended Standards which reflect thoughtful approaches taken in some jurisdictions to assuring consumers the level of service they would expect to receive in a competitive environment. Such standards are essential to ensure that cable consumers receive a reasonable level of customer service:

- a requirement that the cable operator notify subscribers for routine service interruptions;
- standards regarding damaged equipment;
- mechanisms regarding the resolution of service-related disputes;
- standards governing voluntary and involuntary disconnection;
- standards governing distribution of promotional materials;
- standards governing employee identification; and
- standards governing customer surveys and research.

### III. CONCLUSION

Local Governments urge the Commission to consider carefully the Recommended Standards to serve as a model for the consumer protection standards the Commission is required to adopt pursuant to Section 632(b) of the 1934 Act, as amended by the 1992 Act. Local Governments believe that the approach as outlined in the foregoing

comments will ensure cable subscribers a reasonable level of customer service and will not unreasonably burden cable operators.

Respectfully submitted,

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**CUSTOMER SERVICE STANDARDS  
RECOMMENDED BY LOCAL GOVERNMENTS**

1. Telephone Customer Service Requirements.
  - (a) Franchisee's office must be adequately staffed to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine hours per day on weekdays and five hours per day on Saturday.
  - (b) Local and toll-free telephone lines, either staffed or with answering capabilities, providing at least emergency referral information, must be operational at all times so that there is service 24 hours per day, including weekends and holidays.
  - (c) The franchisee shall maintain a state-of-the-art telephone system, which must meet the following standards:
    - (i) each call must be answered within four rings;
    - (ii) the rate of lost calls shall not exceed four and one-half percent in any one month period;
    - (iii) callers shall not be kept on hold for longer than 30 seconds, even during peak periods;
    - (iv) an overflow device shall be installed to permit anyone who is on hold for 30 seconds to leave a message, containing such information as his or her name, address, account number, if available, time of the call, telephone number and a brief description of the reason for the call, which call shall be returned by the franchisee as soon as possible and in no event later than the next business day after the message is recorded; and
    - (v) no more than 20 percent of all calls shall trigger the overflow device and roll over onto the message machine after the thirty second hold.

- (d) Franchisee employees shall refer any person who so requests to a supervisor. Supervisors shall be available to speak to such persons. If, due to unforeseen circumstances, a supervisor is temporarily unavailable, then the supervisor will contact the person as soon as practicable, but in no case later than 4 hours after the request.
- (e) The franchisee shall ensure that a reasonable number of employees at its offices speak any language used by a substantial percentage of the franchisee's subscribers.
- (f) The franchisee must have TDD/TTY equipment at the franchisee office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the franchisee.
- (g) The franchisee shall provide quarterly reports to the franchising authority on the level of conformance with the provisions of this section. The franchising authority may order corrective action if it is determined, based on complaints or any other evidence, that the franchisee's telephone service does not meet the standards of this section. Failure of the franchising authority to require corrective action shall not constitute a waiver of any rights of the franchising authority with respect to any portion of the cable franchise agreement.

2. Walk-In Customer Service Requirements.

Franchisee must maintain a walk-in office or offices to handle all aspects of customer service. The office(s) must be conveniently located and open at least 50 hours per week, and staffed at least nine hours per day on weekdays and five hours per day on Saturdays.

3. Handling and Scheduling of Service Calls.

- (a) Requests from customers for repair and maintenance service must be acknowledged by the franchisee within 24 hours. Repair and maintenance for service interruptions or other repairs not requiring a visit to the subscriber's premises must be completed within 24 hours under normal operating conditions. All other repairs should be

completed within 48 hours under normal operating conditions. The franchisee shall not charge the consumer for this service except in cases beyond the reasonable control of the company, such as documentable cases of repeated subscriber negligence or abuse of the franchisee's equipment.

- (b) Under normal operating conditions, the franchisee shall provide either a specific appointment time upon customer request, or else a pre-designated block of time (not to exceed four hours) for customer service visits to the subscriber's premises. The franchisee shall provide appointments until 9 p.m. at least three days per week and for at least six hours on Saturdays. The franchisee shall not cancel any appointment less than 24 hours before the scheduled appointment time.
  - (c) For each failure of the franchisee to meet any scheduled appointment within the parameters specified in this section with a subscriber who is available and present therefor, the franchisee must give the subscriber so affected a credit to the subscriber's account in an amount equal to the amount of the subscriber's bill for cable service for the preceding month.
4. Service Interruption for System Repair.

The franchisee may interrupt system service after 6:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible, and, except in emergency situations, after 48 hours notice to the franchising authority and 48 hours notice to subscribers. Notice must be either written or posted electronically on the cable system once per hour during the 48 hours preceding the interruption. The franchisee may interrupt service between 1:00 a.m. and 6:00 a.m. for routine tests, maintenance and repair, so long as the franchising authority and subscribers are given notice in the manner described above at least 48 hours prior to the interruption, except in emergency situations. Such interruptions shall not be allowed on Friday or Saturday nights, or on the night preceding a holiday.

5. Service of Outages and Repairs.

- (a) The franchisee shall maintain sufficient repair and maintenance crews so as to be able to correct outages and repair service problems within the following time periods:
  - (i) any outage of sound and/or picture on one or more basic or premium channels or any other channel providing cable service shall be corrected within 12 hours after the franchisee learns of it;
  - (ii) any reception problem or other service problem of either picture or sound quality, except for a problem caused by an intentional, wrongful act of a subscriber or by the subscriber's own equipment which was not supplied by the franchisee, shall be corrected within 48 hours after the franchisee receives a request for repair service. For purposes of this section, "reception problem" shall constitute reception that an affected subscriber reasonably determines is unsatisfactory, unless such reception problem is caused by matters outside the franchisee's control.
- (b) For any outage of sound and/or picture on one or more basic or premium channels which lasts more than four continuous hours in any 24 hour period or any four hours in any calendar day, the franchisee must provide a credit to the subscriber in the amount of 1/30 the total bill for the month for the services affected by the outage for each 24 hour period during which a service outage continues for at least four hours.
- (c) For any reception problem, as defined in paragraph (a)(ii), which remains unreported for more than 48 hours after the franchisee receives a request for repair service (provided that the franchisee was granted reasonable access to the subscriber's premises), the franchisee must give the subscriber a credit in an amount equal to 1/30 the total monthly bill for cable services for each 24 hour period during which such reception problem persists at least four hours.



6. Damaged Equipment.

- (a) The franchisee shall replace any damaged or malfunctioning equipment as soon as practicable, but in no case later than 2 business days after the request, unless the equipment is damaged under circumstances described in paragraph (c).
- (b) The subscriber shall not be liable in any way for loss or damage to franchisee's equipment caused by acts or events outside the subscriber's control.
- (c) If franchisee's equipment is lost, damaged or stolen due to an intentional wrongful act by, or the gross negligence of, a subscriber, then the subscriber shall be liable for the replacement value of the equipment.
- (d) If the franchisee's equipment is lost, damaged or stolen otherwise than in the circumstances described in paragraph (b) or (c), the subscriber shall be liable for the depreciated book value of the equipment.
- (e) In the event the subscriber may be held liable for damage, loss, or theft of the franchisee's equipment, the franchisee shall provide a written, dated notice to the subscriber of the amount sought and the subscriber's opportunity to refer the matter to the local franchising authority's cable office. If referral is not made by the subscriber within 30 days of the notice, the franchisee may commence its collection procedures.

7. Installation Scheduling.

Standard installations must be performed within seven business days after an order has been placed. "Standard installations" are those where the premises at which cable service is to be installed are 125 feet or less from the existing distribution system. Appointments for installations must be made either at a specific time or within four hour time blocks. If the franchisee does not keep the appointment, the franchisee may not charge the customer any fee for installation, and the franchisee must provide the subscriber with a credit equal to the rate for one month of basic service.

8. Billing and Billing Disputes.

- (a) Bills must be rendered monthly, and shall contain itemized charges for each category of service and piece of equipment for which a charge is imposed, an explicit due date of at least twenty (20) days after the date of mailing the bill, the name and address of the franchisee, and the telephone number for the franchisee's office responsible for inquiries and billing. In addition, the bill shall contain the address and telephone number of the local franchising authority's cable office. The bill shall also state the billing period, amount of current billing, and appropriate credits or past due balances, if any.
- (b) In case of a billing dispute, the subscriber shall not be required to pay the disputed portion of the bill until the dispute is resolved. The franchisee shall not apply finance charges, issue delinquency or termination notices, or initiate collection procedures for the disputed portion of the bill pending resolution of the dispute.
- (c) The franchisee shall acknowledge receipt of a written complaint regarding billing within five business days. The franchisee shall promptly undertake a review of the dispute, and shall notify the subscriber of the results of the review as soon as it is completed, but in no case later than 20 days after receipt from the subscriber of the billing dispute. The franchisee must notify the subscriber that the subscriber then has 10 days to file an appeal of the franchisee's resolution of the dispute to the local franchising authority's cable office.
- (d) Late fees shall not be assessed until at least 45 days have elapsed from the mailing of the bill to the subscriber and payment has not been received by the franchisee. Late fees must not exceed the maximum amount permitted by law.

9. Resolution of Service-Related Disputes.

- (a) The franchisee shall send a written notice semiannually to all subscribers that any complaints or inquiries not handled satisfactorily by the franchisee may be referred to the local franchising authority's cable office or the state

regulatory commission. Such notification shall be included in the billing statements.

- (b) The franchisee shall make its best efforts to resolve, as soon as practicable and in no event later than 10 business days after receipt, all service-related complaints. Within five business days of receiving a written complaint, the franchisee shall notify the subscriber that the complaint has been received.

10. Voluntary Disconnection.

The subscriber may request disconnection at any time without charge. The franchisee must disconnect the service as soon as possible, but in no case later than five days after the request. Any deposits held by the franchisee must be returned to the subscriber within 30 days after all equipment has been returned to the franchisee.

11. Involuntary Disconnection.

- (a) The franchisee may terminate service to any subscriber whose bill has not been paid after it becomes delinquent, as long as the franchisee gives proper notice to the subscriber and the subscriber has not filed notice of a billing dispute.
- (b) For purposes of this section, "delinquent" means that at least 45 days have elapsed from the date of the mailing of the bill to the subscriber, payment has not been received by the franchisee, and the subscriber has not notified the franchisee about any dispute regarding the billing, provided that no bill shall be mailed more than 15 days prior to the date services covered by such bill commence, unless the subscriber has requested advance billing.
- (c) For purposes of this section, "proper notice" means that at least five days have elapsed after a separate written notice of impending disconnection has been served personally upon a subscriber, or at least eight days have elapsed after mailing to the subscriber a separate written notice of impending disconnection.

- (d) The franchisee shall not refer any delinquent account to a credit agency, and shall instruct all collection agencies not to refer delinquent accounts to credit agencies. If any credit agency is contacted by the franchisee or by any collection agency collecting delinquent accounts on behalf of the franchisee, the franchisee shall take the following actions:
    - (1) notify the credit agency that the referral was wrongly made and should not adversely affect the subscriber's credit standing, a copy of which notice shall be sent to the subscriber and the local authority's cable office; and
    - (2) send the affected subscriber a payment of \$500.
  - (e) In the event that a subscriber has tampered with equipment provided by the franchisee for the purpose of defrauding the franchisee, the franchisee may terminate the subscriber's service immediately.
12. Notice of Rate Changes of Programming Changes or Deletions.
- (a) The franchisee shall provide 30 days notice to the franchising authority and to affected subscribers of any of the following changes:
    - (1) any change in a programming service;
    - (2) a change in channel location of any service;
    - (3) an increase or decrease in the number of hours a service is carried on the system;
    - (4) any change in the rates, charges, terms or conditions for the receipt of any service;
    - (5) any change in the locations or hours of operation of any service center;
    - (6) any change in billing practice; or
    - (7) any significant change in any of the franchisee's policies.

- (b) Notice of any such changes must be provided in writing, and must be provided at least 30 days prior to the effective date of the change.
13. Provision of General Cable Service Information to Subscribers.
- (a) Upon installation of any new service, the franchisee shall provide each subscriber with the following information:
    - (1) the fees, charges, deposits, and terms and conditions applicable to the service requested by the subscriber;
    - (2) the procedures by which the subscriber will be notified of changes in fees, charges, deposits, and other terms and conditions of service.
    - (3) the franchisee's procedures for the receipt and resolution of subscriber complaints; and
    - (4) the address and telephone number of the franchisee's office to which complaints may be reported.
  - (b) This information shall thereafter be provided to all subscribers on an annual basis, and also upon the request of any subscriber.
  - (c) The franchisee shall provide to subscribers at the initiation of service, and at the time of any change in channel positioning, a card providing the channel location of each programming service.
14. Distribution of Promotional Materials.
- (a) All promotional materials provided by the franchisee to subscribers or to the general public shall clearly and accurately disclose all rates, terms and conditions for the services described. In the case of pay-per-view or pay-per-event programming, all franchisee-provided promotional materials must clearly and accurately disclose price terms; in the case of telephone orders, the franchisee shall take appropriate steps to ensure that customer service representatives clearly and accurately disclose price terms to potential customers before taking the order.

- (b) The franchisee must retain copies of all promotional materials for at least one year from the date of distribution, and shall furnish copies to the local authority upon request.
- (c) For the purposes of this section, "promotional materials" includes any materials, announcements, advertisements, or billing inserts describing any service offered by the franchisee.

15. Franchisee Employee Identification.

- (a) Franchisee's employees who come into contact with customers at the customers' premises must have visible at all times a current picture identification issued by the franchisee.
- (b) When speaking to customers by telephone, all franchisee employees must identify themselves by name.
- (c) All franchisee vehicles must be clearly marked with the franchisee's name and logo.

16. Customer Surveys and Research.

The franchisee must research customer needs on an ongoing basis. As part of such research, the franchisee shall conduct annual customer satisfaction surveys.

17. Franchise Authority Rights.

Failure of the franchising authority to require corrective action with regard to any of the standards promulgated herein shall not constitute a waiver of any rights of the franchising authority with respect to any portion of the cable franchise agreement.

18. Force Majeure.

The term "normal operating conditions" as used in these standards, means operations under any conditions except those conditions which are not reasonably foreseeable, which are totally beyond the control of the franchisee, and as to which the franchisee exercised all reasonable diligence to fulfill its obligations hereunder.